

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A**

IN RE: DONALD W. COLSON, Respondent
Arkansas Bar ID #2005166
CPC Docket No. 2008-055

FILED

SEP 23 2008

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Jeffrey Ouellette in an Affidavit dated June 30, 2008. The information related to the representation of Mr. Ouellette by Respondent beginning in October 2006.

On July 3, 2008, Respondent was served with a formal complaint, supported by affidavit from Jeffrey Ouellette. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

During October 2006, Mr. Ouellette met with Donald W. Colson, an attorney practicing primarily in Benton, Saline County, Arkansas. Mr. Ouellette asked Mr. Colson to look into a legal matter about which Mr. Ouellette had concerns. All Mr. Ouellette had in the-way of funds was \$1200. Mr. Colson advised that he would look into the matter for a fee of \$500, which Mr. Ouellette paid him that day.

At the time of their meeting, Mr. Ouellette explained to Mr. Colson that he had attempted to hire other attorneys but that no one would look into the matter because of the people that he believed were involved in the activity. Mr. Colson advised that he would look into the matter and then report his findings.

Following payment to Mr. Colson, Mr. Ouellette had not received communication from

Mr. Colson. For over a year he tried to get in touch with Mr. Colson with no success. Mr. Ouellette called Mr. Colson a couple of times and also e-mailed him often. In addition to the telephone calls made and the e-mails sent, Mr. Ouellette also sent Mr. Colson a certified letter. Mr. Colson did not respond to the letter either.

In November 2007, Mr. Ouellette filed a grievance with the Office of Professional Conduct with regard to Mr. Colson and his conduct. After review of the grievance, an attorney with the Office wrote Mr. Colson and requested information about the matter. Mr. Colson did not respond until March 24, 2008. In follow up, Mr. Colson was contacted again by the Office of Professional Conduct. Mr. Colson did not respond after that letter was sent, until he was served with the disciplinary complaint.

At the time he signed his Affidavit, Mr. Ouellette still had not heard from Mr. Colson. Following service of the formal complaint, Mr. Colson and Mr. Ouellette have had communication, and Mr. Colson has been attempting to help Mr. Ouellette with his legal issue.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Mr. Colson's conduct violated Rule 1.1, when he was not thorough enough in his representation of Mr. Ouellette to follow through with the investigation as Mr. Ouellette requested after Mr. Colson was notified in December 2006, that the second person he (Colson) contacted would not be able to investigate for them. Rule 1.1 provides that a lawyer shall provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Mr. Colson's conduct violated Rule 1.2(a), when he failed to abide by Mr. Ouellette's objectives of representation, in that Mr. Colson did not follow through with obtaining an investigation of Mr. Ouelette's concerns as Mr. Ouellette requested. Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued.

3. That Mr. Colson's conduct violated Rule 1.3, because after being hired in October 2006, and paid \$500 for representation, Mr. Colson had not acted diligently or promptly in investigating Mr. Ouellette's matter. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

4. That Mr. Colson's conduct violated Rule 1.4(a)(1), when he did not advise Mr. Ouellette when the individuals Mr. Colson wished to perform an investigation as desired by Mr. Ouellette were unable to do so which denied Mr. Ouellette the opportunity of determining how he wished to proceed with the matter. Rule 1.4(a)(1) requires that a lawyer promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules.

5. That Mr. Colson's conduct violated Rule 1.4(a)(3), when he failed to keep his client informed about the status of the matter Mr. Ouellette entrusted to him after Mr. Colson was paid \$500 to investigate the matter. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

6. That Mr. Colson's conduct violated Rule 1.4(a)(4), when he failed to return the telephone messages left for him by Mr. Ouellette seeking information about the matter Mr.

Colson was hired to investigate and when he failed to respond to the letter Mr. Ouellette sent seeking information about the investigation. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that DONALD W. COLSON, Arkansas Bar ID#2005166, be, and hereby is, CAUTIONED for his conduct in this matter. Mr. Colson made full restitution of the fees paid to him following service of the formal disciplinary complaint; therefore restitution is not ordered. Mr. Colson is directed to pay the costs of this proceeding in the amount of \$100, pursuant to Section 18.A of the Procedures. The costs assessed herein, totaling \$100, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By: Steven Shults
Steven Shults, Chair, Panel A

Date: September 23, 2008

(13.M, Rev.1-1-02)